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December 22, 2018

By ECF

The Honorable Ann M. Donnelly
United States District Judge
United States District Court for the Eastern District of New York
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Brooklyn, NY 11201

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Re: *United States v. Dan Zhong*
Criminal Docket No. 16-614 (DLI)

Dear Judge Donnelly:

We write as an update to yesterday's letter informing the Court about the parties' discussions concerning the defendant's motion for Rule 15 depositions.

Counsel for the putative deponents (the "Witnesses") has informed the parties that he has conferred with nearly all of the Witnesses, and that none of them are willing to travel to the United States or England to provide testimony, even with the safe passage letter supplied by the government. Counsel has also informed the parties that:

1. A number of the Witnesses are still willing to travel to Dubai to provide deposition testimony;
2. None of the Witnesses would travel to any other country to provide testimony; and
3. Even the Witnesses willing to travel to Dubai for deposition testimony will not travel during the Chinese New Year celebration. (We have been informed that this holiday is in early February and that the celebration can last several weeks.)

As noted in yesterday's letter, the defense is willing to conduct by videoconference for both parties all depositions in Dubai, so that the parties would be on equal footing.

The importance of securing the Witnesses' directly exculpatory testimony cannot be overstated. Accordingly, we respectfully request that the Court authorize the depositions requested in Mr. Zhong's pending Rule 15 motion as soon as possible; or that the Court schedule a conference as soon as feasible, in the event Your Honor wishes to hear argument on this vital issue. Because of item #3, above, as a practical matter, any depositions will need to be taken during the first few weeks of 2019 to ensure the availability of the testimony at our February 25 trial.

Respectfully submitted,

/s/ Robert J. Cleary
Robert J. Cleary

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